

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Mildred W. Finch, et al.,	)	
	)	
Plaintiffs,	)	Case No. 1:02-CV-132
	)	
vs.	)	
	)	
George Fiorini, et al.,	)	
	)	
Defendants.	)	

Order (including Show Cause Order)

Several motions are presently pending in this action. One, the motion of attorneys of the law firm of Climaco, Lefkowitz, Peca, Wilcox & Garofoli, L.P.A., to withdraw as counsel for Defendant Sanitec, Ltd. (Doc. 91), was granted orally at the most recent status conference in this matter and is hereby **GRANTED** for docket purposes. A second, the motion of Plaintiffs Finch, et al., for class certification (Doc. 86), raises issues previously resolved by the Court. The Court is not persuaded that its resolution of those issues has been erroneous. The renewed motion for class certification (Doc. 86) is, therefore, **DENIED**. A third motion, also by Plaintiffs Finch, et al., requests the entry of default judgment against Defendant Terrance Lee Quatkemeyer. That motion (Doc. 85) is well-taken, inasmuch as Defendant Quatkemeyer's default has been entered in this matter, and he has not opposed Plaintiffs' motion for default

judgment within the time allotted. The Court hereby **GRANTS** Plaintiffs' motion for default judgment against Defendant Quatkemeyer, the appropriate remedy to be determined at a later date.

The two remaining motions are the motion of Defendant Sanitec, Ltd., to dismiss Plaintiffs' second amended complaint (Doc. 88), and Plaintiffs' motion for leave to file a surresponse in opposition to that motion (Doc. 95). The motion to dismiss was filed on behalf of Defendant Sanitec, Ltd., by attorneys Dan Makee and Richard J. Oparil. Plaintiffs' surresponse calls into question Messrs. Makee and Oparil's representation of Sanitec, Ltd. If, as Plaintiffs contend, Messrs. Makee and Oparil do not represent Sanitec, Ltd., the motion to dismiss (Doc. 88) must be stricken from the record in this matter.

The Court hereby **GRANTS** Plaintiffs' motion for leave to file a surresponse (Doc. 95). The Court **ORDERS** Messrs. Makee and Oparil to **SHOW CAUSE**, on or before February 6, 2004, why the motion to dismiss they have filed on behalf of Defendant Sanitec, Ltd., should not be stricken. The Court does not intend to imply that it accepts the representations in the attachment to Plaintiffs' surresponse as true. Those representations require a response from Messrs. Makee and Oparil, however, before the Court will be in a position to determine who represents Sanitec, Ltd., in this matter. In the event that Messrs. Makee and Oparil do

not timely respond to this Show Cause Order, the Court will strike the motion to dismiss (Doc. 88). In the event that they timely respond, any party or attorney who wishes to reply may do so on or before February 20, 2004.

**IT IS SO ORDERED.**

\_\_\_\_\_/s/  
Sandra S. Beckwith  
United States District Judge